



## Zoning Case No. C14-03-0153

RESTRICTIVE COVENANT

OWNER: Airport Commercial Center, Ltd., a Texas limited partnership,  
f/n/a Austin-Bergstrom Airport Center, Ltd., a Texas limited partnership

ADDRESS: 7200 Mopac, Suite 450, Austin, TX 78731

CONSIDERATION: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.

PROPERTY: A 1.549 acre tract of land, more or less, out of the Santiago Del Valle Grant in Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "A" incorporated into this covenant.

WHEREAS, the Owner of the Property and the City of Austin have agreed that the Property should be impressed with certain covenants and restrictions;

NOW, THEREFORE, it is declared that the Owner of the Property, for the consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant. These covenants and restrictions shall run with the land, and shall be binding on the Owner of the Property, its heirs, successors, and assigns.

1. A site plan or building permit for the Property may not be approved, released, or issued, if the completed development or uses of the Property, considered cumulatively with all existing or previously authorized development and uses, generates traffic that exceeds the total traffic generation for the Property as specified in that certain Traffic Impact Analysis ("TIA") prepared by John Hickman and Associates, dated December 2001, or as amended and approved by the Director of the Watershed Protection and Development Review Department. Development on the Property is subject to the recommendations contained in the memorandum from the Transportation Review Section of the Watershed Protection and Development Review Department dated October 25, 2002. The TIA shall be kept on file at the Watershed Protection and Development Review Department
2. If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such agreement or covenant, to prevent the person or entity from such actions, and to collect damages for such actions.
3. If any part of this agreement or covenant is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full effect.
4. If at any time the City of Austin fails to enforce this agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it.

1-15-04  
#43

5. This agreement may be modified, amended, or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, and (b) by the owner(s) of the Property subject to the modification, amendment or termination at the time of such modification, amendment or termination.

EXECUTED this the 12<sup>th</sup> day of January, 2003~~4~~

**OWNER:**

Airport Commercial Center, Ltd.,  
a Texas limited partnership,  
f/n/a Austin-Bergstrom Airport Center, Ltd.,  
a Texas limited partnership

By: AAC Management, L.L.C.,  
a Texas limited liability company,  
General Partner

By: *Gerald Kucera*  
Gerald Kucera, Manager

**APPROVED AS TO FORM:**

*Debra Thomas*  
Assistant City Attorney  
City of Austin

**THE STATE OF TEXAS §**

**COUNTY OF TRAVIS §**

<sup>4</sup> This instrument was acknowledged before me on this the 12<sup>th</sup> day of January, 2003, by Gerald Kucera, Manager, of AAC Management, L.L.C., a Texas limited liability company, on behalf of the company, and the company acknowledged this instrument as General Partner on behalf of Airport Commercial Center, Ltd., a Texas limited partnership, f/n/a Austin-Bergstrom Airport Center, Ltd., a Texas limited partnership.



*Mary Jo Stilp*  
Notary Public, State of Texas

**After Recording, Please Return to:**  
**City of Austin**  
**Department of Law**  
**P. O. Box 1088**  
**Austin, Texas 78767**  
**Attention: Diana Minter, Legal Assistant**

**Recorders Memorandum-**At the time of recordation this instrument was found to be inadequate for the best reproduction, because of illegibility, carbon or photocopy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded.

*EXHIBIT A*  
**PROPERTY DESCRIPTION**

BEING 1.549 ACRES OF LAND OUT OF THE SANTIAGO DEL VALLE GRANT, IN TRAVIS COUNTY, TEXAS, AND BEING A PORTION OF THAT TRACT OF LAND DESCRIBED AS 110.81 ACRES IN THAT WARRANTY DEED TO AUSTIN-BERGSTROM AIRPORT CENTRE, LTD., AS RECORDED IN DOCUMENT NO.2000074675 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS; THE SAID 1.549-ACRE TRACT, AS SHOWN ON THE ACCOMPANYING SKETCH, IS MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**BEGINNING** at an iron rod found, being a point on the southwest line of the said Austin-Bergstrom Airport Centre (ABAC) 110.81-acre tract, being the north line of the existing right-of-way of State Highway No. 71, the said point being the westerly northwest corner of the herein described 1.549-acre tract, from which point an iron rod with cap found, being the most southerly southwest corner of the said ABAC 110.81-acre tract, and being the south corner of that tract of land described as 0.4464 acres in that deed to Sigmor Distributing Service, Inc., recorded in Volume 3973, Page 1119 of the Deed Records of Travis County, Texas, bears N 60° 57' 57" W, a distance of 668.54 feet;

**THENCE**, leaving the said southwest line of the ABAC 110.81-acre tract and north line of the existing right-of-way of State Highway No.71, over and across the said ABAC 110.81-acre tract, N 29° 02' 03" E, a distance of 121.43 feet to a point on the north line of the proposed right-of-way of State Highway No.71;

**THENCE**, with the said north line of the proposed right-of-way of State Highway No.71, continuing over and across the said ABAC 110.81-acre tract, the following three (3) courses;

1. a distance of 741.61 feet with the arc of a curve to the right whose central angle is 5° 25' 14", with a radius of 7839.00 feet and whose chord bears S 54° 29' 50" E, a distance of 741.33 feet to a TxDOT Type-II disk in concrete found, being 200.00 feet left of proposed State Highway No.71 centerline station 11054+39.07;
2. S 51° 47' 13" E, a distance of 218.48 feet to a TxDOT Type-II disk in concrete found, being 200.00 feet left of proposed State Highway No.71 centerline station 11056+57.55, and;
3. a distance of 19.32 feet with the arc of a curve to the left whose central angle is 0° 08' 56", with a radius of 7439.00 feet and whose chord bears S 51° 51' 41" E, a distance of 19.32 feet to a point on the said southwest line of the ABAC 110.81-acre tract and north line of the existing right-of-way of State Highway No.71, from which an iron rod with cap found, being the southwest corner of Spirit Of Texas Drive Subdivision, a subdivision plat recorded in Document No.200000352 of the Official Public Records of Travis County, Texas;

**THENCE**, N 60° 57' 57" W, a distance of 971.37 feet to the **POINT OF BEGINNING** and containing 1.549 acres of land, more or less.

THE STATE OF TEXAS

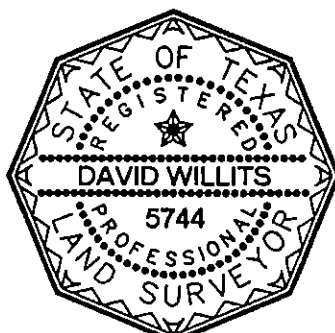
KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF TRAVIS

That I, David Willits, a Registered Professional Land Surveyor, do hereby state that the above description is true and correct to the best of my knowledge and belief.

WITNESS MY HAND AND SEAL at Austin, Travis County, Texas, this the 15<sup>th</sup> day of September 2003 A.D.

Carter & Burgess, Inc.  
2705 Bee Cave Road, Suite 300  
Austin, Texas 78746



*David Willits*  
David Willits  
Registered Professional Land Surveyor  
No. 5744 - State of Texas



GRAPHIC SCALE  
SCALE : 1" = 200'  
SEPTEMBER, 2003  
TRAVIS COUNTY, TEXAS

**LEGEND**

- FOUND IRON ROD
- FOUND IRON ROD WITH CAP
- ◼ FOUND TXDOT TYPE-II DISK IN CONCRETE

AUSTIN-BERGSTROM  
AIRPORT CENTRE, LTD.  
DOC.No.2000074675, O.P.R.T.C.  
WARRANTY DEED: MAY 15, 2000  
110.81 ACRES

SPIRIT OF  
TEXAS DRIVE  
SUBDIVISION PLAT  
DOC.No.200000352,  
O.P.R.T.C.

SH-71 STA= 11056+57.55  
200.00' Lt. S60°57'57"E 35.65'  
S51°47'13"E 218.48'  
SH-71 STA= 11054+39.07  
200.00' Lt. Δ = 0°08'56"  
R= 7439.00'  
L= 19.32'  
C= 19.32'  
CB=S51°51'41"E

Δ = 5°25'14"  
R = 7839.00  
L = 741.61  
C = 741.33  
CB=S54°29'50"E

PROPOSED R.O.W.  
1.549 ACRES  
N60°57'57"W 971.37'

N29°02'03"E 121.43'

POINT OF  
BEGINNING

STATE HIGHWAY 71  
(210' WIDE EXISTING R.O.W.)  
N60°57'57"W 668.54'

(VARYING WIDTH PROPOSED R.O.W.)  
PROPOSED R.O.W.

SANTIAGO DEL VALLE GRANT

THORNBERRY ROAD  
(VARYING WIDTH R.O.W.)

SIGMOR DISTRIBUTING  
SERVICE, INC.  
VOL.3973, PG.1119, D.R.T.C.  
0.4464 AC.

AUSTIN-BERGSTROM  
AIRPORT CENTRE  
ZONING AREA  
GR

SKETCH to ACCOMPANY DESCRIPTION No. 02-012R  
**Carter & Burgess**  
Consultants in Surveying,  
Engineering, Architecture,  
Construction Management,  
and Related Services  
Carter & Burgess, Inc.  
2705 Bee Cave Road  
Suite 300  
Austin, Texas 78748  
Phone: 512.314.3100  
Fax: 512.328.9672  
www.c-b.com  
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*After Recording, Please Return To:*  
*City of Austin*  
*Department of Law*  
*P.O. Box 1088*  
*Austin, Texas 78767*  
*Attention: Diana Minter, Legal Assistant*

**FILED AND RECORDED**

OFFICIAL PUBLIC RECORDS

*Dana Debeauvoir*

2004 Apr 09 10:02 AM 2004066252

MEDINAM \$24.00

DANA DEBEAUVOIR COUNTY CLERK

TRAVIS COUNTY TEXAS

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